

#22 2/5/02 Gray

PTO/SB/28 (06-00)
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CONTINUED PROSECUTION APPLICATION (CPA) REQUEST TRANSMITTAL

Submit an original, and a duplicate for fee processing.

CHECK BOX if applicable.

(Only for Continuation or Divisional applications under 37 CFR 1.53(d))

☐ **DUPLICATE**

Address to:
 Assistant Commissioner for Patents
 Box CPA
 Washington, DC 20231

Attorney Docket No.
 of prior application

PB340P2

First Named Inventor

Choi et al.

Examiner Name

Hines, J.

Group/Art Unit

1641

Express Mail Label No.

This is a request for a ☒ continuation or ☐ divisional application under 37 CFR § 1.53(d),

(continued prosecution application (CPA)) of the prior application number 08/961,083

filed on 10/30/97 entitled Streptococcus pneumoniae Antigens and Vaccines

NOTES

FILING QUALIFICATIONS. The prior application identified above must be a nonprovisional application that is either (1) complete as defined by 37 CFR § 1.51(b) or (2) the national stage of an international application in compliance with 35 U.S.C. 371. Effective May 29, 2000, a CPA may only be filed in a utility or a plant application if the prior nonprovisional application was filed before May 29, 2000. A CPA may be filed in a design application regardless of the filing date of the prior application. See "Request for Continued Examination Practice Changes to and Provisional Application Practice," Final Rule, 65 Fed. Reg. 50092 (Aug. 16, 2000). Interim Rule, 65 Fed. Reg. 14863 (Mar. 20, 2000). 1233 Off. Gaz. Pat. Office (Apr. 11, 2000).

C-J-P NOT PERMITTED. A continuation-in-part application cannot be filed as a CPA under 37 CFR § 1.53(d), but must be filed under 37 CFR § 1.53(b).

EXPRESS ABANDONMENT OF PRIOR APPLICATION. The filing of this CPA is a request to expressly abandon the prior application as of the filing date of the request for a CPA. 37 CFR § 1.53(b) must be used to file a continuation, divisional, or continuation-in-part of an application that is not to be abandoned.

ACCESS TO PRIOR APPLICATION. The filing of this CPA will be construed to include a waiver of confidentiality by the application under 35 U.S.C. 122 to the extent that any member of the public who is entitled under the provisions of 37 CFR § 1.14 to access to, copies of, or information concerning the prior application may be given similar access to, copies of, or similar information concerning the other application or applications in the file jacket.

35 U.S.C. 120 STATEMENT. In a CPA, no reference to the prior application is needed in the first sentence of the specification and none should be submitted. If a sentence referencing the prior application is submitted, it will not be entered. A request for a CPA is the specific reference required by 35 U.S.C. 120 and to every application assigned the application number identified in such request. 37 CFR § 1.78(u).

Warning: Information on this form may become public. Credit Card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

1. ☒ Enter the unentered amendment previously filed on April 27, 2000 under 37 CFR § 1.312 in the prior nonprovisional application.
2. ☐ A preliminary amendment is enclosed.
3. ☐ This application is filed by fewer than all the inventors named in the prior application, 37 CFR § 1.53(d)(4).
 - a. ☐ DELETE the following inventor(s) named in the prior nonprovisional application:

 - b. ☐ The inventor(s) to be deleted are set forth in a separate sheet attached hereto.
4. ☐ A new power of attorney or authorization of agent (PTO/SB/81) is enclosed.
5. ☐ Information Disclosure Statement (IDS) is enclosed:
 - a. ☐ PTO/SB/08
 - b. ☐ Copies of IDS citations

[Page 1 of 2]

Burden Hour Statement: this form is estimated to take 0.4 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box CPA, Washington, DC 20231

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PTO/SB/28 (08-00)
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 Patent and Trademark Office U.S. DEPARTMENT OF COMMERCE
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CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA	(4) RATE	(5) CALCULATIONS
	TOTAL CLAIMS 73 (37 CFR § 1.10(c) or (j))	-20* =	53	< \$ 18.00 =	\$ 954.00
	INDEPENDENT CLAIMS 2 (37 CFR § 1.16(b) or (i))	-3** =	0	< \$ 80.00 =	0.00
	MULTIPLE DEPENDENT CLAIMS (if applicable) (37 CFR § 1.16(d))			< \$ 270.00 =	
				BASIC FEE (37 CFR § 1.16)	\$ 710.00
				Total of above Calculations =	\$1,664.00
	Reduction by 50% for filing by small entity (Note 37 CFR 1.27)				
	* Reduce claims in excess of 20 and over original patent ** Reduce independent claims over original patent			TOTAL =	\$1,664.00

6. ☐ Small entity status: Applicant claims small entity status. See 37 CFR 1.27
7. ☒ The Commissioner is hereby authorized to credit overpayments or charge the following fees to Deposit Account No 08-3425
- a. ☒ Fees required under 37 CFR § 1.16.
- b. ☒ Fees required under 37 CFR § 1.17.
- c. ☐ Fees required under 37 CFR § 1.18.
8. ☐ A check in the amount of \$ _____ is enclosed.
9. ☐ Payment by credit card Form PTO-2038 is enclosed.
10. ☐ Applicant requests suspension of action under 37 CFR 1.103(b) (fee under 37 CFR 1.17(i) enclosed).
11. ☐ New Attorney Docket Number, if desired _____
(Prior application Attorney Docket Number will carryover to this CPA unless a new Attorney Docket Number has been provided heretofore)
12. a. ☐ Receipt For Facsimile Transmitted CPA (PTO/SB/29A)
- b. ☐ Return Receipt Postcard (Should be specifically itemized, See MPEP 503)
13. ☒ Other: Fee Transmittal Sheet
 Petition to Withdraw Application From Issue Under 37 C.F.R. § 1.313(b)(5)

NOTE: The prior application's correspondence address will carry over to this CPA UNLESS a new correspondence address is provided below

14. NEW CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

Customer No. 22195

or ☐ New correspondence address below

Name

Address

City

State

Zip Code

Country

Telephone

Fax

15. SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Name (Print/Type)

Kenley K. Hoover

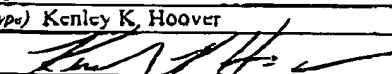
Signature

Registration No (Attorney/Agent)

40,302

Date

December 11, 2000

FEE TRANSMITTAL for FY 2001				Complete if Known																																																																																																																																																																																	
<i>Patent fees are subject to annual revision</i>																																																																																																																																																																																					
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1. <input checked="" type="checkbox"/> The Commissioner is hereby authorized to charge indicated fees and credit any overpayment to: Deposit Account Number 08-3425 Deposit Account Name Human Genome Sciences, Inc. <input checked="" type="checkbox"/> Charge Any Additional Fee Required Under 37 CFR §§ 1.16 and 1.17 <input type="checkbox"/> Applicant claims small entity status See 37 CFR 1.27				1. 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Submitted By Name (Print/Type) Kenley K. Hoover Signature: 				Complete (if applicable) Registration No. 40,302 Telephone 301-610-5771 Date 12/11/2000																																																																																																																																																																																	

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HUMAN GENOME SCIENCES, IN.

Please date stamp and return to addressee on reverse side

Application of: Choi et al.

Application Number: 08/961,083

Filed: October 30, 1997

Title: *Streptococcus pneumoniae* Antigens
And Vaccines

Group Art Unit: 1641

Examiner: Hines, J.

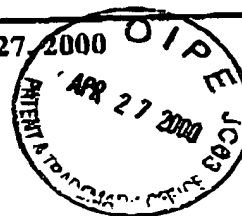
Army. Docket No.: PB340P2

Documents Filed Via Hand Delivery on April 27, 2000

1. Postcard (1)
2. Amendment Under 37 C.F.R. § 1.312
3. Fee Transmittal Sheet, with appropriate fee (in dupl.)
4. Statement under 37 C.F.R. §§ 1.821-1.825
5. Substitute Sequence Listing in paper and computer readable form (6 pages)
6. Issue Fee Transmittal, with appropriate fee (in dupl.)

MSM/CB/mpb

Arm.: Legal Dept.



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UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark OfficeAddress: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
08/961,083	10/30/97	CHOI	G P6340F2

001195
HUMAN GENOME SCIENCES INC
9410 KEY WEST AVENUE
ROCKVILLE MD 20850

HM33/1024

EXAMINER
HINES, JART UNIT
1541
PAPER NUMBER

DATE MAILED: 10/24/00

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OCT 31 2000

HGS PATENT DEPT

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

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**Response to Rule 312
Communication**

Application No.

08/961,083

Applicant(s)

Choi, et al

Examiner

Ja-Na Hines

Group Art Unit

1645

☐ The petition filed on _____ under 37 CFR 1.312(b) is granted. The paper has been forwarded to the examiner for consideration on the merits.

☒ The amendment filed on Apr 27, 2000 under 37 CFR 1.312 has been considered, and has been.

☐ entered.

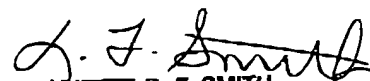
☐ entered as directed to matters of form not affecting the scope of the invention (Order 3311).

☒ disapproved. See explanation below

☐ entered in part. See explanation below.

The PTO no longer accepts 312(b) amendments. This new interim rule became effective March 20, 2000. See

Federal Register: March 20, 2000 (Volume 65, Number 54), page 14869 "The Office proposed changing Sec. 1.132 to provide that any amendment filed after the date the issue fee is paid must be accompanied by: (1) A petition under Sec. 1.313(c)(1) to withdraw the application from issue; (2) an unequivocal statement that one or more claims are unpatentable; and (3) an explanation as to how the amendment is necessary to render such claim or claims unpatentable"


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

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Paper No. 24

(D)
Human Genome Sciences, Inc.
9410 Key West Avenue
Rockville, MD 20850

DEC 13 2000
HGS PATENT DEPT.

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DEC 11 2000

**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of
Gil H. Choi, et al.
Application No. 08/961,083
Filed: October 30, 1997
Attorney Docket No. PB340P2

ON PETITION

This is a decision on the petition, filed December 11, 2000, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue in favor of a continued prosecution application (CPA) under 37 CFR 1.53(d).

The application is hereby withdrawn from issue.

Petitioner is advised that the issue fee paid on April 27, 2000 in the parent application is not refundable nor can it be applied towards any new Notice of Allowance which may issue on the CPA filed December 11, 2000.

Telephone inquiries should be directed to Marianne Morgan at (703) 306-3475.

The application is being forwarded to Technology Center 1600 for processing of the CPA.

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Assistant Commissioner
for Patent Policy and Projects

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